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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/727,303	12/02/2003	Paul Gallagher	017887-005920US	5215
20350	7590 02/10/2005		EXAM	INER
TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR			BORLINGHAI	JS, JASON M
			ART UNIT	PAPER NUMBER
SAN FRANCI	SCO, CA 94111-3834	4	3628	

DATE MAILED: 02/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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	- Exten after ( - If the - If NO - Failur Any re earne
	Status
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Office Action Summ
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Application No.	Applicant(s)	
10/727,303	GALLAGHER, ET AL.	
Examiner	Art Unit	
Jason M. Borlinghaus	3628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address -r Reply

## ORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM MAILING DATE OF THIS COMMUNICATION.

- sions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed SIX (6) MONTHS from the mailing date of this communication.

  period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.

  period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.

<ul> <li>Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).</li> <li>Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).</li> </ul>						
Status						
<ol> <li>Responsive to communication(s) filed on <u>07 January 2005</u>.</li> <li>This action is <b>FINAL</b>.</li> <li>Since this application is in condition for allowance except for forms.</li> </ol>	al matters, prosecution as to the merits is					
closed in accordance with the practice under Ex parte Quayle, 19	35 C.D. 11, 453 O.G. 213.					
Disposition of Claims						
4) Claim(s) 1-3,5-8,11-14,16-18,20-26,28-32 and 34-42 is/are pendir 4a) Of the above claim(s) is/are withdrawn from considerati 5) Claim(s) is/are allowed. 6) Claim(s) is/are rejected. 7) Claim(s) is/are objected to. 8) Claim(s) 1-3,5-8,11-14,16-18,20-26,28-32 and 34-42 are subject to	on.					
9) The specification is objected to by the Examiner.						
10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.						
Priority under 35 U.S.C. § 119						
<ul> <li>12) Acknowledgment is made of a claim for foreign priority under 35 U a) All b) Some * c) None of:</li> <li>1. Certified copies of the priority documents have been received</li> <li>2. Certified copies of the priority documents have been received</li> <li>3. Copies of the certified copies of the priority documents have application from the International Bureau (PCT Rule 17.2(a)</li> <li>* See the attached detailed Office action for a list of the certified copies</li> </ul>	ed. ed in Application No e been received in this National Stage )).					
Attachment(s)						
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)	terview Summary (PTO-413)  Iper No(s)/Mail Date  Intice of Informal Patent Application (PTO-152)					

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### **DETAILED ACTION**

### Election/Restrictions

This application contains claims directed to the following patentably distinct species of the claimed invention: at least 2 species identified as:

- 1) Figure 2; and
- 2) Figure 4.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, there is no generic claim.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the

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case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

#### Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason M. Borlinghaus whose telephone number is (703) 308-9552. The examiner can normally be reached on 8:30am-5:00pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung Sough can be reached on (703) 308-0505. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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HYUNG SOUGH SUPERVISORY PATENT EXAMINER TECHNOLOGY CENTER 3600

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